

## SUPPRESSION OF SMUGGLING OF INTOXICATING LIQUORS

*Convention and exchange of notes signed at Havana March 4, 1926*

*Senate advice and consent to ratification April 9, 1926*

*Ratified by the President of the United States April 15, 1926*

*Ratified by Cuba June 17, 1926*

*Ratifications exchanged at Havana June 18, 1926*

*Entered into force June 18, 1926*

*Proclaimed by the President of the United States June 19, 1926*

44 Stat. 2395; Treaty Series 738

### CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE RE- PUBLIC OF CUBA FOR THE PREVENTION OF SMUGGLING OPERATIONS BETWEEN THEIR RESPECTIVE TERRITORIES

The United States of America and the Republic of Cuba, being desirous of avoiding any difficulties which might arise between them in connection with the laws in force in the United States of America on the subject of alcoholic beverages, have decided to conclude a Convention for that purpose and have appointed as their respective Plenipotentiaries:

The President of the United States of America, Mister Enoch H. Crowder, Ambassador Extraordinary and Plenipotentiary of the United States of America in Cuba and

The President of the Republic of Cuba, Mister Carlos Manuel de Céspedes y de Quesada, Secretary of State of the Republic of Cuba, Who, having communicated to each other their respective full powers, which were found to be in good and proper form, have agreed to the following articles:

#### ARTICLE I

The High Contracting Parties declare that it is their firm intention to uphold the principle that three marine miles extending from the coast line outwards and measured from low-water mark constitute the proper limits of territorial waters.

ARTICLE II<sup>1</sup>

The Republic of Cuba agrees:

1) That it will raise no objection to the boarding of private vessels under the Cuban flag outside the limits of territorial waters by the authorities of the United States, its territories or possessions, in order that inquiries may be addressed to those on board and an examination be made of the ship's papers for the purpose of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States, its territories or possessions, in violation of the laws there in force. When such inquiries and examination show a reasonable ground for suspicion, a search of the vessel may be instituted.

2) If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offense against the laws of the United States, its territories or possessions, prohibiting the importation of alcoholic beverages, the vessel may be seized and taken into a port of the United States, its territories or possessions, for adjudication in accordance with such laws.

3) The rights conferred by this article shall not be exercised at a greater distance from the coast of the United States, its territories or possessions, than can be traversed in one hour by the vessel suspected of endeavoring to commit the offense.—In cases, however, in which the liquor is intended to be conveyed to the United States, its territories or possessions, by a vessel other than the one boarded and searched, it shall be the speed of such other vessel and not the speed of the vessel boarded, which shall determine the distance from the coast at which the right under this article can be exercised.

## ARTICLE III

No penalty or forfeiture under the laws of the United States shall be applicable or attach to alcoholic liquors or to vessels or persons by reason of the carriage of such liquors, when such liquors are listed as sea stores or cargo destined for a port foreign to the United States, its territories or possessions, on board Cuban vessels voyaging to or from ports of the United States, its territories or possessions, or passing through the territorial waters thereof, and such carriage shall be as now provided by law with respect to the transit of such liquors through the Panamá Canal, provided that such liquors shall be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of such liquors shall at any time or place be unladen within the United States, its territories or possessions.

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<sup>1</sup> For an understanding relating to art. II, see exchange of notes, p. 1141.

ARTICLE IV <sup>2</sup>

Any claim by a Cuban vessel for compensation on the grounds that it has suffered loss or injury through the improper or unreasonable exercise of the rights conferred by Article II of this Convention or on the ground that it has not been given the benefit of Article III shall be referred for the joint consideration of two persons, one of whom shall be nominated by each of the High Contracting Parties.

Effect shall be given to the recommendations contained in any such joint report. If no joint report can be agreed upon, the claim shall be referred to the Permanent Court of Arbitration at The Hague described in the Convention for the Pacific Settlement of International Disputes, concluded at The Hague, October 18, 1907.<sup>3</sup> The Arbitral Tribunal shall be constituted in accordance with Article 87 (Chapter IV) and with Article 59 (Chapter III) of the said Convention. The proceedings shall be regulated by so much of Chapter IV of the said Convention and of Chapter III thereof (special regard being had for Articles 70 and 74, but excepting Articles 53 and 54) as the Tribunal may consider to be applicable and to be consistent with the provisions of this agreement.

All sums of money which may be awarded by the Tribunal on account of any claim shall be paid within eighteen months after the date of the final award without interest and without deduction, save as hereafter specified.

Each Government shall bear its own expense. The expenses of the Tribunal shall be defrayed by a ratable deduction of the amount of the sums awarded by it, at a rate of five per centum on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

## ARTICLE V

This Convention shall be subject to ratification and shall remain in force for a period of one year from the date of exchange of ratifications.

Three months before the expiration of the said period of one year, either of the High Contracting Parties may give notice of its desire to propose modifications in the terms of the Convention.

If such modifications have not been agreed upon before the expiration of the term of one year mentioned above, the Convention shall lapse.

If no notice is given on either side of the desire to propose modifications, the Convention shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side to propose as provided above three months before its expiration modifications in the Convention, and to the provision that if such

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<sup>2</sup> For an understanding relating to art. IV, see exchange of notes, p. 1141.

<sup>3</sup> TS 536, *ante*, vol. 1, p. 577.

modifications are not agreed upon before the close of the period of one year, the Convention shall lapse.

#### ARTICLE VI

In the event that either of the High Contracting Parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present Convention the said Convention shall automatically lapse, and, on such lapse or whenever this Convention shall cease to be in force, each High Contracting Party shall enjoy all the rights which it would have possessed had this Convention not been concluded.

The present Convention shall be duly ratified by the High Contracting Parties in accordance with their respective laws; and the ratifications shall be exchanged at the City of Habana as soon as possible.

In witness whereof the Plenipotentiaries above mentioned have signed the two originals of the present Convention, and have affixed their respective seals thereto.

Done in two copies of the same text and legal force in the English and Spanish languages in the City of Habana, on this fourth day of March, nineteen hundred and twenty-six.

ENOCH H. CROWDER	[SEAL]
CARLOS MANUEL DE CÉSPEDES	[SEAL]

#### EXCHANGE OF NOTES

##### *The Cuban Secretary of State to the American Ambassador*

[TRANSLATION]

REPUBLICA DE CUBA  
SECRETARIA DE ESTADO

No. 185

*Habana, March 4, 1926*

MR. AMBASSADOR:

With reference to the Convention signed today between the Republic of Cuba and the United States of America to obviate the occurrence of difficulties between both countries arising out of the application of the laws in force in the United States of America relating to alcoholic beverages, and as supplementary to the said Convention and to the negotiations and correspondence which we have had on this subject, I have the honor to advise Your Excellency that the Government of the Republic of Cuba understands that in the event of the adherence of the United States of America to the Protocol of December 16, 1920,<sup>4</sup> which created the Permanent Court of International Justice at The Hague, the Government of the United States will not refuse to consider modifying the aforementioned Convention, or the conclusion of a

<sup>4</sup> 6 LNTS 380.

separate agreement, in which it shall be stipulated that the claims mentioned in Article IV of the said Convention, which may not be settled in the manner indicated in the first paragraph of the said article, shall be submitted to the Permanent Court of International Justice instead of to the Permanent Court of Arbitration.

The Government of the Republic of Cuba likewise understands that each time that the authorities of the United States seize any Cuban vessel in conformity with the stipulations contained in Article II of the Convention above referred to, the said authorities of the United States shall be obliged to communicate very promptly a notification of what has occurred to the diplomatic representative of the Republic of Cuba in Washington giving the name of the vessel, the place of the occurrence, the circumstances of the case and the reasons therefor.

I hope to have the pleasure of receiving from Your Excellency in the name and on behalf of the Government of the United States of America confirmation of this understanding.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

CARLOS MANUEL DE CÉSPEDES

To His Excellency

General ENOCH H. CROWDER

*Ambassador Extraordinary and*

*Plenipotentiary of the United States of America*

*etc. etc. etc.*

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*The American Ambassador to the Cuban Secretary of State*

EMBASSY OF THE  
UNITED STATES OF AMERICA

*Habana, March 4, 1926*

No. 675

EXCELLENCY:

I have the honor to acknowledge the receipt of your note of today's date, in which you were so good as to inform me in connection with the signing this day of the Convention between the United States and Cuba to aid in the prevention of the smuggling of intoxicating liquors into the United States that the Government of Cuba understands: (1) That in the event of the adhesion by the Government of the United States to the protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague, the Government of the United States will not be averse to considering a modification of the said Convention, or the making of a separate Agreement, providing that claims mentioned

in Article IV of that Convention which can not be settled in the way indicated in the first paragraph of that Article shall be referred to the Permanent Court of International Justice instead of to the Permanent Court of Arbitration; and (2) that in case Cuban vessels are seized by the authorities of the United States under the provisions of Article II of this Convention, a notification thereof shall be promptly transmitted to the diplomatic representative of Cuba at Washington, giving the name of the vessel, the place of seizure and a brief statement of the grounds therefor.

Complying with your request for confirmation of these understandings I have the honor to state that the Cuban Government's understanding of the attitude of the Government of the United States in this respect is correct, and that in the event of the adhesion by the United States to the Protocol of December 16, 1920, under which the Permanent Court of International Justice has been created at The Hague, the Government of the United States will not be averse to considering a modification of the Convention this day signed, or the making of a separate Agreement, providing for the reference of claims mentioned in Article IV of the Convention which can not be settled in the way indicated in the first paragraph of that Article, to the Permanent Court of International Justice instead of to the Permanent Court of Arbitration.

I also confirm your understanding regarding the notification that is to be given to the diplomatic representative of the Cuban Government at Washington in case Cuban vessels are seized by the authorities of the United States.

Accept, Excellency, the renewed assurance of my highest consideration.

E. H. CROWDER

His Excellency

CARLOS MANUEL DE CÉSPEDES  
*Secretary of State, Habana*